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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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ERIC WILTON BURTON,

Civil No. 08cv0325-LAB (POR)

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Petitioner,

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v.

**ORDER DENYING MOTION FOR  
RECONSIDERATION**

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**[Document No. 195]**

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MATTHEW CATE, Secretary of California  
Department of Corrections and Rehabilitation,

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Respondent.

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On October 27, 2010, Petitioner filed a Motion for Reconsideration to Litigate the Conten[t]ions of the 4th and 14th U.S. Constitutional Violations, which the Court construes as a Motion to Reconsider the Court's Denial of Petitioner's Motion to Amend his First Amended Petition. (Doc. 195.)

On April 1, 2010, Petitioner filed a Motion of Consideration to Litigate Contentions of 4th and 14th U.S. Constitutional Violations, which the Court construed as a Motion to Amend First Amended Petition. (Doc. 156.) On July 14, 2010, this Court issued a Report and Recommendation that Petitioner's Motion to Amend First Amended Petition be denied. (Doc. 173.) First, the Court found Petitioner's Fourth Amendment claim is not cognizable on federal habeas review. Second, even if Petitioner's claim were cognizable on federal habeas review, the Court found that the factors which guide federal courts in deciding whether to grant leave to amend weighed in favor of Respondent. On August 23, 2010, District Judge Burns adopted this Court's Report and Recommendation. (Doc. 186.)

Reconsideration is an extraordinary remedy to be used sparingly. Absent highly unusual circumstances, a motion for reconsideration will not be granted “unless the District Court is presented with *newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law.*” Kona Enterprises, Inc. v. Estate of Bishop, 229 F.3d 877, 890 (9th Cir. 2000) (emphasis added).

Upon a review of Petitioner's current motion, and the Court's prior motion, it is apparent Petitioner has not presented newly discovered evidence, the Court did not commit clear error, and there has been no intervening change in the controlling law. Therefore, the Court finds Petitioner fails to satisfy the requirements for reconsideration. Based thereon, the Court hereby DENIES Petitioner's Motion for Reconsideration. (Doc. 195.)

**IT IS SO ORDERED.**

12 || DATED: November 29, 2010

  
Louisa S. Porter

16 cc: The Honorable Larry A. Burns  
all parties